3 March 2017

Christine McKelvie MSP
Convener of Equalities and Human Rights Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Dear Ms McKelvie

Midlothian Health & Social Care Partnership response to Scottish Government ‘call for views on destitution and asylum in Scotland’

A very small number of people in the asylum process have presented to services in Midlothian in recent years. We expect that this is related to the proximity to a large city. We are unsure of the number of people living in the area who have not presented to services.

Midlothian Health & Social Care Partnership does not have written policies regarding people seeking asylum or with insecure immigration status but does intend to look at this in the near future.

People seeking asylum are advised and supported to contact the services set up for this purpose in Glasgow. In general people with no recourse to public funds are not offered a service, such as housing, by the local authority. Each person would be considered on a case by case basis as the complexities around immigration status (right to advice/right to financial support and so on) have to be considered. However if children are involved then child protection procedures can result in temporary accommodation being provided in the short term.

Therefore, when people do present it can be challenging to provide a service to them. This applies to all people with insecure immigration status. One example is women seeking refuge to escape a violent relationship. Women in the UK legally - on temporary work permits, spousal visas or student visas – are not entitled to certain state benefits. Women (even if married to a British citizen), can struggle to leave violent relationships as they cannot claim housing benefit which is required to pay for a place in a refuge.
We are aware of discussions with the Scottish Government and UK Government to find a solution to the issue for women and children fleeing violent relationship. It is not in the interest of the child or parent, for children to be accommodated by the local authority, away from their parent (the response of some local authorities) or for women’s aid organisations to be expected to lose significant funding by providing accommodation and support.

Women’s Aid East and Midlothian is committed to offer accommodation and other support to women at all times, irrespective of immigration status, but can only offer one refuge place at a time as this is a depended upon source of funding to the organisation. Last year support was provided to 29 women with no recourse to public funds, four of which stayed in refuge (average stay in refuge is 6 months but the actual length of stay for those women is not available at this time).

Although there are few specific local policies in Midlothian Council related to people seeking asylum, managers are aware of the advice available from other agencies, such as the Legal Services Agency in Glasgow. (There is a procedure covering advice and signposting to other agencies, primarily designed to guide housing staff.)

In respect to the specific points raised:

1. **As a public service provider, what support are you able to provide to asylum seekers and those with insecure immigration status. Also what are the main barriers to providing support in these circumstances.**

   The advice of the Council Legal team has been to follow the attached COSLA and Home office Guidance. In particular:

   “Schedule 3 of the Nationality, Immigration and Asylum Act 2002 lists four classes of persons ineligible for support under sections 12 and 13A of the Social Work (Scotland) Act 1968.15 These classes are:
   • those who have refugee status in another EEA state;
   • EEA nationals (unless refusing support breaches their rights under the Community Treaties);
   • failed asylum seekers; and
   • persons unlawfully in the UK.
   Note, however, the exclusions under the Nationality, Immigration and Asylum Act 2002 do not apply to children. Withholding support is also subject to human rights considerations.”

   We would also sign post people to relevant charities: British Red Cross, Refugee Survival Trust, Scottish Refugee Council, Homeless charities (E.g., Night Shelter) as examples.

2. **We’d also like to hear about how an asylum seeker or a person with insecure immigration status’ need for support is assessed and what**
would make this assessment process easier, please make reference to any policies and procedures within your organisation.

Again advice would be to follow the above Guidance whilst considering Human Rights implications. It would have to be considered on a case by case basis particularly where Children are involved.

3. If your area does not have experience of asylum seekers or dealing with people with insecure immigration status, it would be helpful to know what training, policies, guidance or procedures are in place, or being developed, to address support should it need to be provided in the future.

As 1 and 2 above.

I hope this response is helpful.

Yours sincerely

[Signature]

Eibhlin McHugh
Joint Director Health and Social Care